

ZONING BOARD OF ADJUSTMENT

This year voters will be asked to approve modifications to the Andover Zoning Ordinance. Some definitions were expanded and updated, and a few were added. One section was changed to reflect a recent decision of the New Hampshire Supreme Court that makes the ordinance less restrictive. The planning and zoning boards recommend these modifications and ask for your approval. During 2003 the board held 25 hearings, including two appeals. In two instances the board determined that no action was required, three applications were denied, and 20 were approved.

You are always welcome to attend any board meeting, and we are always looking for new talent.

Respectfully submitted,
Andover Zoning Board of Adjustment



Vincent Bolte, Grade 1

2004

ZONING ORDINANCE AMENDMENT

The following presents the proposed zoning ordinance changes. The present text of each section is followed by the proposed language.

Present Text **ARTICLE III: Interpretation and Application**

Application

[No present text: this section is new.]

Proposed Text

3. Any use proposed for a site within two zoning districts shall be governed by the stricter standards, within the discretion of the board of appeals, provided that when the use falls substantially within one of those districts, then the standards of that district shall be applied.

Present Text

ARTICLE IV: General Provisions

A. Definitions

Alteration – Any structural change or rearrangement of any part of a building, including the enlargement of a building, whether by extension of any side or increase in height. Alteration includes the movement of a building from one location to another, but does not include ordinary repairs.

Proposed Text

Alteration – Any structural change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any structural change in means of ingress or egress, or any enlargement or diminution of a building or structure, whether horizontally or vertically. Alteration includes the movement of a building from one location to another.

Present Text

Building – Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals or property.

Proposed Text

Structure - Shall mean any combination of any materials, including buildings, whether portable, movable or fixed, having a roof and enclosed within exterior walls or otherwise, built for the shelter of persons or property and/or used for residential, commercial, industrial, institutional, religious, recreational, professional or other purposes. For the purposes of interpreting and applying height limitations in this Ordinance only, the term 'Building' shall also include without limitation communications technology antennae, flagpoles, church steeples, decorative additions to buildings, and signs of all kinds.

Proposed Text [This section is new]

Building Site – Shall mean each portion of a lot, tract or parcel of land upon which a single building is or is to be placed, sometimes called that building's "footprint".

Present Text

Family - One or more persons living as a single non-profit housekeeping unit.

Proposed Text

Family – One or more persons occupying a single dwelling unit, provided that unless all members are legally related, no such family shall contain over five (5) persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

Present Text

Mobile Home – Any structure fitted with or capable of being fitted with wheels, rollers or skids and used for or constructed as a dwelling or sleeping place for one or more persons, with water and sanitary facilities.

Proposed Text

Manufactured Housing – Any structure, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include presite built housing as defined herein. The term manufactured home includes park trailers, travel trailers, and other similar vehicles. The use of any such housing for human habitation shall require a certificate of occupancy from the Building Inspector issued under the Building Code.

Presite Built Housing – As used in used in this subdivision, "presite built housing" means any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. The use of any such housing for human habitation shall require a certificate of occupancy from the Building Inspector issued under the Building Code. For the purposes of this subdivision, presite built housing shall not include manufactured housing, as defined herein.

Present Text

Set Back – Each lot in all districts shall have a front yard not less than 30 feet in depth at any place, measured at right angles to the front lot line.

Proposed Text

F. **Set Back** – Set back is measured from the side or rear lot lines and on street sides from the street right of way. The following shall apply except where other sections of this Ordinance provide different measures.

Front Yard – In all districts, a minimum of thirty (30) feet will be maintained between any part of any structure and the applicable street(s) right of way line(s). Orientation of the structure on the lot does not determine front yard location for the purpose of this ordinance.

Side and Rear Yards – A distance of a minimum of fifteen (15) feet will be maintained between any part of any structure and the lot line.

Present Text

I. **Building Height** – No new building except a silo, barn or church tower shall be constructed to a height of more than 2-1/2 stories or 35 feet above average ground level, nor shall any existing building except a silo, barn or church tower, be altered or modified so as to increase its height to more than 2-1/2 stories or 35 feet above average ground level.

Proposed Text

I. **Structure Height** – No new structure shall be constructed to a height of more than 2-1/2 stories or 35 feet above average ground level, nor shall any existing building be altered or modified so as to increase its height to more than 2-1/2 stories or 35 feet above average ground level. "Height" shall mean the topmost part of any portion of the structure or building.

Present Text**Waterfront Property** –

Each lot created shall have a minimum waterfront lot line of 200 feet.

2. All buildings and structures except a dock or structure to house boats and their accessory equipment shall be not less than 30 feet away from the waterfront lot line.

Proposed Text**J. Waterfront Property** –

1 East lot created shall have a minimum waterfront lot line of 200 feet.

2. All buildings or structures erected in a waterfront lot shall meet the standards of N.H. RSA 483-B. et sequelae.

Present Text**ARTICLE V: Agricultural and Residential Districts (Zone AR)****Special Exceptions**

a. Campgrounds, provided that they are located on a lot of at least 5 acres with 3500 square feet of land for each camping site, with yards along all boundary lines no less than 50 feet in depth, and provided that they conform to all applicable local and state regulations.

*Proposed Text*2. Special Exceptions

a. Campgrounds, provided that they are located on a lot of at least 5 acres with 3,500 square feet of land for each camping site, with setbacks along all lot boundary lines in conformity with local regulations, and provided that such campgrounds otherwise conform to all applicable local and state regulations.

*Present Text***ARTICLE VII: Administration and Enforcement**

Remodeling – No permit is required under this ordinance for remodeling or repairing if the purpose for which the building or structure is to be used is not changed, and if the building structure is not enlarged or the use extended.

Proposed Text

E. Remodeling – No Zoning Board of Adjustment permit is required under this ordinance for remodeling or repairing if the purpose for which the building or structure is to be used is not changed, and if the building structure is not enlarged or the use extended. Please see the Building Ordinance for any permit that may be required thereunder.

Present Text

G. Fee – Before a certificate of compliance or a permit may be issued the applicant shall pay a fee of five dollars (\$5.00).

Proposed Text

G. Fee – Before a certificate of compliance or a permit may be issued the applicant shall pay a fee in the amount currently required by the Board of Adjustment regulations.

*Present Text***ARTICLE VIII: Board of Adjustment**

E. Variance – The Board of Adjustment in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board of Adjustment may authorize the issue of a permit for a variance from the terms of this Ordinance, but only where the Board of Adjustment finds all the following conditions are met:

1. There are special circumstances or conditions applying to the lot or structure for which the variance is sought (such as, but not limited to, the exceptional narrowness, shallowness, or shape of the lot or structure in question, or unusual topographical conditions, which are peculiar to such lot or structure, and the application of the requirements of this Ordinance will deprive the owner of such lot or structure of a reasonable use of it, and will impose upon such owner a hardship not shared by the owners of other lots or structures in the same district.

The variance as authorized is the minimum variance that will grant reasonable relief to the owner and is necessary for a reasonable use of the lot or structure.

The granting of the variance will be in harmony with the general purposes and intent of this Ordinance, and with the convenience, welfare, and character of the district within which it is proposed, and will not be injurious or otherwise detrimental to the public welfare.

The use proposed is a permitted use or qualifies as a special exception.

Proposed Text

E. Variance – The Board of Adjustment in appropriate cases and subject to appropriate conditions and safeguards as determined by the Board of Adjustment may authorize the issue of a permit for a variance from the terms of this Ordinance, but only where the Board of Adjustment finds all the following conditions are met:

No decrease in value of surrounding properties would be suffered.

Granting the variance must not be contrary to the public interest.

Denial of the variance would result in unnecessary hardship to the owner seeking it.

The zoning restriction as applied to the applicant's property interferes with the applicant's reasonable use of the property, considering the unique setting of the property in the environment.

No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restrictions on the property.

The variance would not injure the public or private rights of others.

By granting the variance, substantial justice would be done.

The use must not be contrary to the spirit and intent of the ordinance.

Present Text

F. Fees – application for a special exception or a variance shall be accompanied by payment of a fee of twenty dollars (\$20.00). This shall be in addition to any fee required under Article VII.

Proposed Text

F. Fees – application for a special exception or a variance shall be accompanied by payment of a fee in the amount currently required by Board of Adjustment regulations. This shall be in addition to any fee required under Article VII.

*Present Text***ARTICLE XIII: Penalty**

Every person, firm, or corporation violating any of the provisions of this Ordinance, upon conviction thereof, shall be fined not more than twenty dollars (\$20.00) for each day that such violation exists.

*Proposed Text***ARTICLE XIII: Penalty**

Every person, firm or corporation violating any of the provisions of this Ordinance, upon conviction thereof, shall be fined not more than the amount then permitted by applicable state statute, N.H. RSA 676:17, or its successor or amended form.

ZONING ORDINANCE AMENDMENT

The following presents the proposed zoning ordinance changes applicable to Article XII, Floodplain Development. The present text of each section is followed by the proposed language.

Present Text [To be deleted as is no longer applicable]

Area of Shallow Flooding: A designated AO, AH, or VO zone on the Flood Insurance Map (FIRM) with a one-percent or greater annual possibility of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of such flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet-flow.

Present Text

Area of Special Flood Hazard: The land in the Floodplain within the Town of Andover subject to a one-percent or greater possibility of flooding in any given year. The area is designated as zone A on the FIRM.

Proposed Text

Area of special flood hazard is the land in the flood plain within the Town of Andover subject to a one percent or greater chance of flooding in any given year. The area is designated as Zone A on the Flood Insurance Rate Map.

Present Text

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operation.

Proposed Text

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Proposed Text [This section is new]

Flood Insurance Study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

Present Text

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 days.

Proposed Text

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. For floodplain management purposes the term "manufactured home" includes park trailers, travel trailers, and other similar vehicles placed on site for greater than 180 consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

Proposed Text [This section is new]

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Proposed Text [This section is new]

New Construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Present Text

Regulatory Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discourage the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and the Floodway Map.

Proposed Text

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Proposed Text [This section is new]

Violation means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in sections B or H(2b) is presumed to be in violation until such time as that documentation is provided.

Present Text

G.1) In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Building Inspector, in addition to the copies required by the RSA 483-A: I -b. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Board.

Proposed Text

G. 1) In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the Building Inspector, in addition to the copies required by RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Bureau.

Present Text

H.1) In unnumbered A Zones the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

Proposed Text

H.1) In Zone A the Building Inspector shall obtain, review, and reasonably utilize any 100 year flood elevation data available from any federal, state or other source including data submitted for development proposals submitted to the community (i.e. subdivisions, site approvals).

Present Text

H. 2. d) Recreational vehicles placed on sites within Zones A1 -30, AH, and AE shall either:

- 1) be on the site for fewer than 180 consecutive days,
- 2) be fully licensed and ready for highway use, or
- 3) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c)(6) of Section 60.3.

Proposed Text

H. 2. d) Recreational vehicles placed on sites within Zone A shall either:

- 1) be on the site for fewer than 180 consecutive days,*
- 2) be fully licensed and ready for highway use, or*
- 3) meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "manufactured homes" in Paragraph (c)(6) of Section 60.3.*



Emily Pingree, Grade 4

REPORTS OF:

ANDOVER VILLAGE DISTRICT

ANDOVER FIRE DISTRICT

EAST ANDOVER FIRE PRECINCT



Hayden Buswell, Grade 1